

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6046

BILL NUMBER: SB 23

NOTE PREPARED: Oct 23, 2007

BILL AMENDED:

SUBJECT: Animal Fighting Contests.

FIRST AUTHOR: Sen. Arnold

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Definition of Baiting:* The bill defines "baiting" to mean:

- (1) attacking an animal with violence;
- (2) provoking an animal; or
- (3) harassing an animal with another animal; for the purpose of training the animal for or causing the animal to engage in an animal fighting contest.

Enhanced Penalties: It makes it a Class C felony for a person to do the following:

- (1) Breed, transfer, or possess an animal for the purpose of baiting the animal or using the animal in an animal fighting contest.
- (2) Promote or stage a baiting or an animal fighting contest.
- (3) Allow property to be used to conduct a baiting or an animal fighting contest.
- (4) Use an animal in a baiting or an animal fighting contest.
- (5) Attend a baiting or an animal fighting contest.

Animal Fighting Paraphernalia: It makes possession of animal fighting paraphernalia:

- (1) a Class A misdemeanor if the possession is for the purpose of baiting an animal or with the intent to commit certain animal fighting offenses; and
- (2) a Class C felony if the possession is with the intent to commit certain animal fighting offenses and while also possessing a dog, cock, fowl, hog, or bird bearing an injury consistent with participation in or training for a baiting or an animal fighting contest.

Neglect of a Dependent: The bill makes neglect of a dependent a Class C felony instead of a Class D felony

if the offense involves a violation of the law concerning animal fighting contests.

Seizure: It authorizes the seizure of money and property that is used by a person to commit certain offenses relating to animal fighting contests.

Racketeering Activity: The bill specifies that certain offenses relating to animal fighting contests are considered racketeering activity.

Court Orders: The bill requires a court to order a person who is convicted of certain offenses concerning animal fighting to refrain from:

- (1) owning, harboring, or training an animal; or
- (2) residing in a dwelling with another person who owns, harbors, or trains an animal; for ten years after the person is sentenced.

Repeal: The bill repeals a provision that makes attending a fighting contest involving animals a Class A misdemeanor.

Effective Date: July 1, 2008.

Explanation of State Expenditures: Summary - The bill will have indeterminate, but potentially increased, cost to incarcerate offenders for longer periods for certain felony offenses that have increased penalties, by adding baiting to the definition of these Class C felony crimes, and by adding certain animal fighting contest offenses to racketeering activity. Also, seizures allowed under the bill could minimally increase costs for the Bureau of Motor Vehicles (BMV), but could provide revenues through the sale of the seized property. The bill may result in more fine revenue for state and local governments from increased penalties for misdemeanor offenses. All changes in expenditures and revenues will depend on the number of offenders convicted of the offenses established or enhanced under the bill.

Enhanced Penalties and Neglect of a Dependent: The bill increases the penalties from Class D felonies to Class C felonies for crimes related to animal fighting. It adds animal baiting to these offenses and applies several new circumstance to the offenses. In addition, the bill increases the penalty for neglect of a dependent, a Class D felony, to a Class C felony if the offense is committed in a location where baiting or animal fighting contests occur or that results from baiting or animal fighting contests.

State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. A Class D felony is punishable by a prison term ranging between six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from 2 to 8 years. More offenders could mean increased costs to the Department of Correction (DOC). The average expenditure to house an adult offender was \$19,185 in FY 2007. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,138. The average length of stay in DOC facilities for all Class C felony offenders is approximately two years.

Racketeering Activity: Also, certain animal fighting offenses are added to the list of crimes that constitute racketeering activity and which may lead to a conviction for corrupt business influence, a Class C felony. Between 2001 and 2005, five offenders a year on average were committed to a state correctional facility for

corrupt business influence.

Seizure: The bill would add to the type of property that may be seized money and any portion of real or personal property that is used in connection with baiting or animal fighting contests. To the extent that the court would notify the BMV and the BMV produces a clear title for a seized vehicle, costs for the BMV could increase minimally. The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Explanation of State Revenues: *Enhanced Penalties and Neglect of a Dependent:* No change would likely occur in state revenue as a result of this bill since criminal fines and court fees are the same for either Class D or C felonies.

Animal Fighting Paraphernalia and Repeal: Under current law, possession of animal fighting paraphernalia is a Class B misdemeanor and may be enhanced to a Class A misdemeanor if the person has a prior unrelated conviction. Under the bill, the Class A misdemeanor enhancement would be repealed and the underlying crime would increase to a Class A misdemeanor. Additionally, paraphernalia related to animal baiting would be added to the definition of the crime. Revenue to the Common School Fund may increase if a person is sentenced for a Class A misdemeanor rather than for a Class B misdemeanor. The maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Class A misdemeanor is \$5,000. Court fees of \$120 would remain unchanged.

Seizure: The proceeds from the sale of seized property are distributed first to the county sheriff to cover sale costs; then to any person holding a valid lien or having an interest in the property; and then to the Common School Fund as ordered by the court.

Explanation of Local Expenditures: *Animal Fighting Paraphernalia and Repeal:* Costs to local governments could increase because the maximum term of imprisonment for a Class B misdemeanor is up to 180 days, while the maximum term for a Class A misdemeanor is up to one year. The average daily cost of housing a prisoner is approximately \$44.

Seizure: The prosecuting attorney for the county in which the seizure occurred may cause an action for reimbursement of law enforcement costs and forfeiture to be brought by filing a complaint in the circuit, superior, or county court of the jurisdiction and may retain an attorney to bring the action who is not a deputy prosecuting attorney.

Explanation of Local Revenues: *Enhanced Penalties and Neglect of a Dependent:* No additional revenues would be expected since the court fees for Class D and Class C felonies are both \$120.

Animal Fighting Paraphernalia and Repeal: Court fees of \$120 would remain unchanged.

Seizure: A county sheriff may retain proceeds from the sale of a seized property to offset costs associated with its sale.

State Agencies Affected: DOC; BMV.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, DOC.

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